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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,107	01/23/2004	David H. Long	OHI 002 P2	7914
34232	7590	11/02/2005	EXAMINER	
MATTHEW R. JENKINS, ESQ. 2310 FAR HILLS BUILDING DAYTON, OH 45419			PRICE, RICHARD THOMAS JR	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,107

Applicant(s)

LONG, DAVID H.

Examiner

Thomas Price

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sukup U.S. Patent 3,715,973.

Sukup teaches an apparatus for heating grain or the like. Sukup teaches cooking soybeans or grains to a temperature of about 215 degrees Fahrenheit. This renders the feed more palatable and increases feed conversion efficiency. The storage bin 12 and related structure is defined as a cooking station, and the discharge outlet from container 30 is considered to be a feeding station. However, Sukup does not discuss a weaning station and a slaughtering station. Regarding claim 1, the use of weaning stations in combination with a feedlots is well known. Conventionally, the calves are born and fed by their mothers for a variety of time periods. The claimed weaning station broadly reads on a mother and calf at a conventional feedlot. Further, large scale feedlots of today are adjacent positioned to slaughtering locations. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the apparatus of Sukup with a weaning and slaughtering stations, in order to minimize transportation costs of shipping the animals.

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As for claims 2 and 3, Sukup teaches cooking the feed to a temperature of at least 160 degrees Fahrenheit.

Regarding claims 4 and 5, slaughter weights are known to vary according to market influences, and as such, the slaughter weight of 1000 pounds or 1000-1300 pounds is considered to be an obvious matter of choice to one of ordinary skill in the art at the time the invention was made. Further, the specification contains no discussion as to the criticality of such weights.

In regards to claims 6 and 7, modern slaughterhouses have cutting and packaging stations such that the use of such stations is believed to be obvious to a person of ordinary skill in the art at the time the invention was made in order to hygienically distribute the meat to places of purchase.

As for claims 8 and 9, the specific amount of days for weaning and specific weight of weaning of a calf is widely accepted to vary depending on the tenderness desired meat to be consumed. Naturally, calves will nurse from the mother for over well over a year, and have a one-year weight of over 300 pounds. While modern feedlots will wean the calf after the first day, in order to place the calf on a grain diet in order to increase the calf's weight as fast as possible, thus reducing the time value of money cost at slaughter. In regards to claim 8, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to reduce the weaning time to 3 days or less in order to place the calf on a solid food diet to increase weight as a fast as possible. Or contrarily, it would have been obvious to a person of ordinary skill in the art

at the time the invention was to wean the calf at a weight of 300 pounds, in order to increase meat tenderness, such as is done with calves to produce Veal.

Response to Arguments

In response to Applicant's argument regarding the reference to Sukop, it is notoriously well known in the cattle business that a newborn calf initially receives milk from its mother, then it is naturally or forced to be weaned from its mother, and then is placed on a solid food type diet. The claimed weaning station broadly reads on a mother and calf placed in a stall such that they are separated from the other cattle until a time that the calf is able to interact with said other cattle. Modern feed lot operations are known to have adjacent positioned slaughter facilities, in order to minimize costs associated with transporting the animals to a slaughter facility. Lastly, it is known to raise animals on a variety of food type diets, a liquid diet to produce a veal food product, a grazing diet to produce a free range food product, and a grain diet to produce a mass supply food product.

Response to Amendment

Applicant's arguments filed 08-18-2005 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Summary: Claims 1-9 are rejected.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 571-272-6892. The examiner can normally be reached on Monday through Friday from 8:30a.m. to 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas Price

Primary Examiner Gau: 3643

rtp